

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/748,761 Confirmation No.
Applicant : Pflueger
Filed : December 30, 2003
Title : STENT FOR MAINTAINING PATENCY OF A BODY REGION
TC/A.U. : NA
Examiner : NA
Docket No. : D-3090
Customer No. : 33197

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal service as first class mail with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

[Signature] 2/6/04
[Signature] FEBRUARY 6, 2004

PETITION FOR CORRECTED FILING DATE UNDER 37 CFR § 1.10(c)

Sir:

Applicant hereby petitions the Commissioner to accord the above-identified patent application a filing date of December 30, 2003.

Applicant's undersigned attorney recently became aware that the United States Patent and Trademark Office (USPTO) will accord a filing date other than the United States Postal Service (USPS) deposit date of the above-identified application. In that regard, attached as Exhibit 1 is a copy of the self-addressed stamped postcard that was received by the undersigned's office on January 13, 2004. As indicated by the USPTO barcode label, the above-identified application appears to

reflect a filing date of December 31, 2003. However, as indicated on the postcard, the date of mailing is indicated as December 30, 2003.

Attached as Exhibit 2 is a copy of the Express Mail Certificate bearing the number of the Express Mail mailing label. In addition, the Express Mail Certificate indicates that the date of deposit of the above-identified patent application, drawings, and related documents was December 30, 2003.

Attached as Exhibit 3 is a true copy of the Express Mail mailing label (Customer Copy) showing that the date of deposit being December 30, 2003. Applicant submits that the official USPS circular ink stamp near the center of the mailing label correctly reflects the December 30, 2003 date of deposit. In addition, the "date-in" field correctly identifies the date of deposit as December 30, 2003. The "date in" field was originally incorrectly filled in by a USPS employee as December 31, 2003. The undersigned, on December 30, 2003, reviewed the Express Mail mailing label (Customer Copy) and instructed one of his employees to return to the Post Office and have the "date-in" field corrected.

The "date-in" field on the Express Mail mailing label (Customer Copy) was corrected by the USPS on December 30, 2003 after the above-identified application was deposited with the USPS, and is evidenced by the initial "M" of a USPS employee on the Express Mail mailing label (Customer Copy). See Exhibit 3. The envelope containing the above-identified application had apparently already been dispatched from the Post Office when this correction was made. Thus, the Express Mail mailing label

attached to this envelope had a "date-in" field which was incorrectly dated. It is believed that this incorrectly filled in "date-in" field was used to incorrectly accord the filing date to the above-identified application.

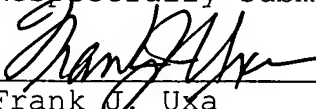
The facts as summarized above make clear that the true filing date of the above-identified application is December 30, 2003.

In view of the above, applicant submits that all of the requirements of 37 CFR § 1.10(c) have been satisfied. Thus, applicant respectfully requests that this petition be granted and that the above-identified application be accorded a filing date of December 30, 2003.

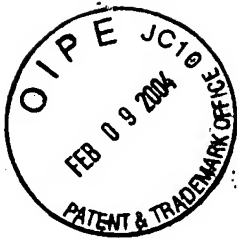
Applicant requests that any fee required in connection with this Petition for Corrected Filing Date under 37 CFR § 1.10(a) be charged to Deposit Account No. 21-0890.

Date: 2/6/04

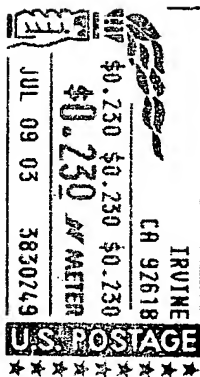
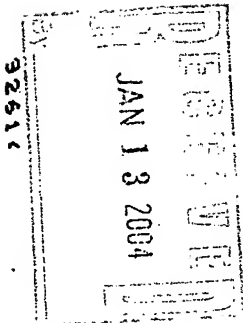
Respectfully submitted,



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(949) 450-1764 Facsimile



STOUT, UXA, BRYAN & MULLINS, LLP
FRANK J. UXA, JR.
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IRVINE, CA 92618



New Application

The United States Patent & Trademark Office

Official mailroom stamp affixed hereto acknowledges receipt of the documents indicated below

Applicant: K. Plueger
U.S. Serial Number: N/A Docket: D-3090
Filed: Peru
Title: Stent
Date Mailed: 12/30/03 Date Due: _____

Enclosed:

- ☒ Patent Application ☒ Transmittal letter ☐ Deposit Account Authorization
☒ Application Data Sheet
☒ Drawings: 14 Sheet(s) of ☐ formal ☒ informal
☐ Check number: _____ in the amount of \$ _____
☒ Declaration and/or Power of Attorney Unassigned
☐ Assignment ☐ Recordation Cover ☐ Deposit Account Authorization
☐ Preliminary Amendment
☐ Amendment ☐ Transmittal letter ☐ Deposit Account Authorization
☐ Information Disclosure Statement
☐ Form PTO 1449 and copies of references listed
☐ Issue Fee transmittal ☐ Deposit Account Authorization
☒ Request for Non-Publication
☐ _____
☐ _____
☐ _____
☒ EL 930247813 US
☒ Certificate of Mailing by ☒ Express Mail ☐ First Class Mail

17497 U.S. PTO
10/748761

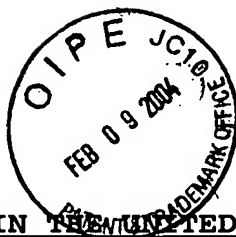


123103

FJU 4/01

EXHIBIT 1

D-3090



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT

In re application of:

PFLUEGER

) Group Art Unit: N/A

Serial No. N/A

) Examiner: N/A

Dated: Submitted herewith

)
)
)
For: STENT FOR MAINTAINING PATENCY)
OF A BODY REGION)

Express Mail Mailing Label No. EL980247813US

Date of Deposit: December 30, 2003

I hereby certify that the following documents as identified below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the Commissioner for Patents, MAIL STOP Patent Application, PO BOX 1450, ALEXANDRIA, VA 22313.

1. Application Transmittal;
2. Application;
3. Drawings (informal);
4. Declaration (unsigned);
5. Application Data Sheet;
6. Request for Non-Publication; and
7. Return receipt postcard.

The 7 above-identified documents are enclosed herewith.

Respectfully submitted,

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Office of Frank J. Uxa
Attorney for Applicant
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FJUxa/jm

EXHIBIT 2

DOCKET NO.: D-3090

THE ENCLOSED PATENT APPLICATION OF PFLUEGER IS BEING
FILED IN ACCORDANCE WITH SECTION 37 CFR 1.10 BY EXPRESS
MAIL AND SHOULD BE ACCORDED A FILING DATE:

December 30, 2003

SEE THE EXPRESS MAIL CERTIFICATE ATTACHED TO THE APPLICATION.

ORIGIN (POSTAL USE ONLY)				DELIVERY (POSTAL USE ONLY)			
PO ZIP Code 42619	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>	Postage \$ 250.97	Delivery Attempt Mo. Day Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature		
Date In Mo. Day Year 12 30 03	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$	Return Receipt Mo. Day Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature			
Time In Mo. Day Year 3 38	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Mo. Day Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature				
Weight lbs. 11 ozs.	Int'l Alpha Country Code	COD Fee	NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday				
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$	Customer Signature				
CUSTOMER USE ONLY METHOD OF PAYMENT: X927758 Express Mail Corporate Acct. No.				Federal Agency Acct. No. or Postal Service Acct. No.			
FROM: (PLEASE PRINT) FRANK J UXA 4 VENTURE STE 300 IRVINE CA 92618-7384 2-3090				TO: (PLEASE PRINT) Commissioner for Patents MS Patent Appn PO Box 1450 Alexandria, VA 22313-1450			

Customer Copy
Label 11-F June 2002

EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

Post Office To Addressee

WARRANTY OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if
waiver of signature is requested. I wish delivery to be made without obtaining signature of
addressee or addressee's agent (if delivery employee judges that article can be left in secure
location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

INS

PRESS HARD.
You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com

EXHIBIT 3